

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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ANTHONY T. RUCANO, I

Plaintiff,

v.

9:18-CV-0218  
(GTS/CFH)

D. VENETTOZZI, Dir. of Special Housing/Inmate  
Disciplinary Program (“IDP”), NYS DOCCS;  
A. RODRIGUEZ, Acting Dir. of Special Housing/IDP,  
NYS DOCCS; MICHAEL KIRKPATRICK, Super.,  
Clinton C.F.; D. UHLER, Super., Upstate C.F.;  
LT. DURKIN, Lt., Clinton C.F.; R. BISHOP, Captain,  
Clinton C.F.; P. DEVLIN, Captain, Clinton C.F.;  
G.T. KING, Sgt., Clinton C.F.; J. KOWALOWSKI,  
Rec. Program Leader II, Clinton C.F.; J. BREYETTE,  
Corr. Officer, Clinton C.F.; and OFFICER TUCKER,  
Corr. Officer, Clinton C.F.,

Defendants.

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APPEARANCES:

OF COUNSEL:

ANTHONY T. RUCANO, I  
Plaintiff, *Pro Se*  
4 West 31 Street, Apt. 1210  
New York, New York 10001

THE WAGONER FIRM, PLLC  
Counsel for Defendants Bishop, Breyette,  
Devlin, Durkin, King, Kirkpatrick, Rodriguez,  
Tucker, Uhler and Venettozzi  
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Albany, New York 12207

MATTHEW D. WAGONER, ESQ.

LIPPES MATHIAS WEXLER FRIEDMAN, LLP  
Counsel for Defendant Kowalowski  
50 Fountain Plaza, Suite 1700  
Buffalo, New York 14202

VINCENT M. MIRANDA, ESQ.

GLENN T. SUDDABY, Chief United States District Judge

**DECISION and ORDER**

Currently before the Court, in this *pro se* prisoner civil rights action filed by Anthony T. Rucano, I (“Plaintiff”) against the eleven above-captioned employees of the New York State Department of Corrections and Community Supervision (“Defendants”) pursuant to 42 U.S.C. § 1983, are (1) a motion for summary judgment filed by Defendants Bishop, Breyette, Devlin, Durkin, King, Kirkpatrick, Rodriguez, Tucker, Uhler and Venettozzi, (2) a motion for summary judgment filed by Defendant Kowalowski, and (3) United States Magistrate Judge Christian F. Hummel’s Report-Recommendation recommending that Defendants’ motions be granted and that Plaintiff’s Second Amended Complaint be dismissed with prejudice in its entirety. (Dkt. Nos. 178, 179, 197.) Neither party has filed an objection to the Report-Recommendation, and the deadline by which to do so has expired. (*See generally* Docket Sheet.)

After carefully reviewing the relevant papers herein, including Magistrate Judge Hummel’s thorough Report-Recommendation, the Court can find no clear-error in the Report-Recommendation.<sup>1</sup> Magistrate Judge Hummel employed the proper standards, accurately recited the facts, and reasonably applied the law to those facts. As a result, the Report-Recommendation is accepted and adopted in its entirety for the reasons set forth therein.

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<sup>1</sup> When no objection is made to a report-recommendation, the Court subjects that report-recommendation to only a clear-error review. Fed. R. Civ. P. 72(b), Advisory Committee Notes: 1983 Addition. When performing such a clear-error review, “the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” *Id.*; *see also Batista v. Walker*, 94-CV-2826, 1995 WL 453299, at \*1 (S.D.N.Y. July 31, 1995) (Sotomayor, J.) (“I am permitted to adopt those sections of [a magistrate judge’s] report to which no specific objection is made, so long as those sections are not facially erroneous.”) (internal quotation marks omitted).

**ACCORDINGLY**, it is

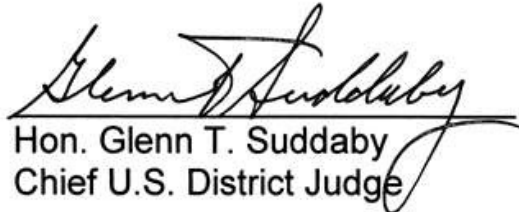
**ORDERED** that Magistrate Judge Hummel's Report-Recommendation (Dkt. No. 197) is **ACCEPTED** and **ADOPTED** in its entirety; and it is further

**ORDERED** that the motion for summary judgment filed by Defendants Bishop, Breyette, Devlin, Durkin, King, Kirkpatrick, Rodriguez, Tucker, Uhler and Venettozzi (Dkt. No. 178) is **GRANTED**; and it is further

**ORDERED** that the motion for summary judgment filed by Defendant Kowalowski (Dkt. No. 179) is **GRANTED**; and it is further

**ORDERED** that Plaintiff's Second Amended Complaint (Dkt. No. 25) is **DISMISSED** with prejudice in its entirety.

Dated: August 2, 2021  
Syracuse, New York



Hon. Glenn T. Suddaby  
Chief U.S. District Judge